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Attorneys for Defendant
UNUM LIFE INSURANCE COMPANY
OF AMERICA, UNUMPROVIDENT CORPORATION
and MDL DENTAL, LTD, STD, LIFE, AD&D PLAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

THERESA MONSEUR KELLY,

Plaintiff,

vs.

UNUM LIFE INSURANCE COMPANY OF
AMERICA, UNUMPROVIDENT
CORPORATION, MDL INFORMATION
SYSTEMS, INC., and MDL DENTAL, LTD,
STD, LIFE, AD&D PLAN

Defendants.

CASE NO. C 05-02915-CW

**STIPULATION REQUESTING A
STAY OF THIS MATTER; ORDER
THEREON**

INTRODUCTION

Plaintiff Theresa Monseur-Kelly (“plaintiff”), and defendants Unum Life Insurance Company of America (“Unum”), UnumProvident Corporation, and MDL Dental LTD, STD, Life and AD&D plan (collectively “defendants”), hereby submit to the Court a Stipulation and Order requesting that this matter be stayed. This request is based on the following facts:

This matter involves a claim for disability benefits (“the claim”) made by plaintiff under an employee benefit plan provided to employees of MDL Information Systems, Inc. (“MDL”). The plan funds its disability insurance through a group disability insurance policy issued by Unum to MDL. The plan that is the subject of this matter, the policy, and the claim are governed by the Employee Retirement Income and Security Act of 1974 (“ERISA”).

In her complaint filed in this matter, plaintiff alleges that her claim for benefits was wrongfully terminated by defendants. Pursuant to an agreement with various Departments of Insurance throughout the United States known as the Regulatory Settlement Agreement (“the Agreement”), Unum has established a procedure through which insureds can have a claim that has been denied reassessed by Unum (“reassessment process”) to determine if benefits should be paid pursuant to the claim. Unum sent notification of the reassessment process to plaintiff. Plaintiff notified Unum that she wishes to have the claim reassessed under the reassessment process.

Pursuant to the terms of the Agreement, when an insured chooses to be part of the reassessment process, any litigation involving the claim may be stayed. Pursuant to plaintiff’s request for reassessment of her denied claim, and pursuant to the terms of the Agreement, the parties hereby request that the Court stay this matter to allow time for Unum to complete the reassessment of plaintiff’s claim for benefits. The reassessment process may obviate the need for litigation and therefore a stay will serve important interests of judicial economy.

STIPULATION

Accordingly, plaintiff Theresa Monseur-Kelly, through her undersigned counsel and defendants Unum Life Insurance Company of America, UnumProvident Corporation, and MDL Dental LTD, STD, Life and AD&D plan, through their undersigned counsel, hereby stipulate that:

This matter may be stayed to allow Unum time to complete the reassessment of plaintiff’s

1 Dental LTD, STD, Life and AD&D plan, through their undersigned counsel, hereby stipulate that:

2 This matter may be stayed to allow Unum time to complete the reassessment of plaintiff's
3 claim for disability benefits. This matter should be placed on the Court's calendar for a Case
4 Management Conference ("CMC") 120 days from today's date in order to determine the status of the
5 reassessment process and the status of the ongoing litigation. In addition, because additional
6 relevant information will likely be submitted or generated during the reassessment, the parties shall
7 serve their Rule 26(a)(1) disclosures and Rule 26(f) report after the reassessment is concluded.

8 All current case management dates can be vacated and new case management dates can be
9 established, if necessary, at the subsequent CMC.

10 IT IS SO STIPULATED.

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Dated: November 15, 2005

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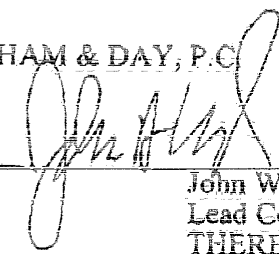
KELLY

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BRANHAM & DAY, P.C.

By


John Wood
Lead Counsel for Plaintiff
THERESA MONSEUR

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Dated: November 15, 2005

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Plaintiff

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KELLY

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EMISON, HULLVERSON & BONAGOFKY

By


Theo J. Emission III
Local Counsel for

THERESA MONSEUR

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Date: November __, 2005

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By

Sean P. Nalty
Attorney for Defendants

STIPULATION REQUESTING A STAY OF THIS MATTER

-3-

CASE NO. C 05-02915 CW

1 claim for disability benefits. This matter should be placed on the Court's calendar for a Case
2 Management Conference ("CMC") 120 days from today's date in order to determine the status of the
3 reassessment process and the status of the ongoing litigation. In addition, because additional
4 relevant information will likely be submitted or generated during the reassessment, the parties shall
5 serve their Rule 26(a)(1) disclosures and Rule 26(f) report after the reassessment is concluded.

6 All current case management dates can be vacated and new case management dates can be
7 established, if necessary, at the subsequent CMC.

8 IT IS SO STIPULATED.

9 BRANHAM & DAY, P.C.

10
11 Dated: November __, 2005

By _____
John Wood
Lead Counsel for Plaintiff
THERESA MONSEUR KELLY

14 EMISON, HULLVERSON & BONAGOFISKY

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16 Dated: November __, 2005

By _____
Theo J. Emison III
Local Counsel for Plaintiff
THERESA MONSEUR KELLY

20 KELLY, HERLIHY & KLEIN, LLP

21
22 Date: November 15, 2005

By Sean P. Nalty
Sean P. Nalty
Attorney for Defendants
UNUM LIFE INSURANCE COMPANY
OF AMERICA, UNUMPROVIDENT
CORPORATION and MDL DENTAL, LTD, STD,
LIFE, AD&D PLAN

27 **ORDER**

1 The Court accepts the stipulations of the parties as set forth above. Based on these
2 stipulations, the Court hereby stays this matter to allow for the completion of the reassessment by
3 defendants of plaintiff's claim for disability benefits that is the subject of this matter. In addition,
4 because additional relevant information will likely be submitted or generated during the
5 reassessment, the parties shall serve their Rule 26(a)(1) disclosures and Rule 26(f) report after the
6 reassessment is concluded. The Court will retain jurisdiction over this action pending the
7 reassessment. All current case management dates are vacated. This matter is set for a new case
8 management conference on 3/24/06 @ 1:30 PM. IT IS SO ORDERED.

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11 CLAUDIA WILKEN, JUDGE OF THE
12 UNITED STATES DISTRICT COURT

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